

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

In re Application of

JSC “INGTORGSTROY”,

Case No. 22 Misc. _____

For an Order Pursuant to 28 U.S.C. § 1782 to Conduct
Discovery for Use in Foreign Proceedings

**EX PARTE APPLICATION OF JSC “INGTORGSTROY”
FOR DISCOVERY PURSUANT TO 28 U.S.C. § 1782**

Applicant JSC “INGTORGSTROY”, by and through its undersigned counsel, Kellner Herlihy Getty & Friedman LLP, along with a Memorandum of Law, the Declaration of Alexandra Filippova, dated April 1, 2022 and accompanying Exhibits, and the Declaration of Thomas Vandenabeele dated April 4, 2022 and accompanying Exhibits, respectfully submits this Application for judicial assistance pursuant to 28 U.S.C. § 1782, in obtaining documentary and testimonial evidence for use in a foreign proceeding. The Applicant seeks evidence from: Citibank, N.A.; The Bank of New York Mellon; Société Générale, New York Branch; HSBC Bank USA, N.A.; BNP Paribas USA; JPMorgan Chase Bank, N.A.; Barclays Bank PLC; Deutsche Bank Trust Co. Americas; The Bank of Nova Scotia, New York Agency; UBS AG; Bank of America, N.A.; Standard Chartered Bank US; Commerzbank AG, New York Branch; and The Clearing House Payments Company, LLC (together the “Respondents”), each of which is found in this District.

Applicant satisfies each of the three statutory requirements set forth in 28 U.S.C. § 1782.

First, the Respondents from whom discovery is sought are each found within the Southern District of New York. *Second*, the discovery sought by Applicant is “for use” in connection with pending and contemplated claims within pending and contemplated proceedings described in the

accompanying Declaration of Alexandra Filippova against former CEOs and beneficial owners of OJSC “GK Amazarkan”, including Pavel Entin and Bogdan Solodukha (the “Foreign Defendants”) before the commercial court of Moscow city and the commercial court of Kaluga Region, Russia (“Foreign Proceedings”). *Third*, Applicant is an interested person within its capacity as plaintiff in the Foreign Proceeding.

Further, each of the discretionary factors established in *Intel Corp. v. Advanced Micro Devices, Inc.*, 542 U.S. 241, 264-65 (2004), militate in favor of granting this Application. *First*, there is no expectation that any of the Respondents from whom discovery is sought will be participants in the Foreign Proceedings and, as such, this Application constitutes the only practical and timely method for obtaining the needed evidence for use there. *Second*, there is no indication that the foreign tribunal would be unreceptive to the evidence. *Third*, the documentary and testimonial evidence sought through the instant Application would likely be admissible in the Foreign Proceedings and does not otherwise circumvent any proof-gathering restriction under the laws of Russia. *Fourth*, the discovery sought through this Application is not unduly intrusive or burdensome because it is of limited scope. The proposed requests to the Respondents seek limited records relating to wire transactions for which the Respondents were involved as originating bank, beneficiary bank, intermediate or correspondent bank to CHIPS, Fedwire, or where the Respondents otherwise facilitated interbank funds transfers related to the Foreign Defendants, as well as documents relating thereto, for the limited period beginning April 1, 2015 to the present.

Accordingly, for the reasons described in the accompanying Memorandum of Law, the Declaration of Alexandra Filippova and accompanying Exhibits, and the Declaration of Thomas Vandenabeele and accompanying Exhibits, Applicant respectfully requests that the Court issue

an Order in the proposed or substantially similar form as filed with this Application (1) granting judicial assistance pursuant to 28 U.S.C. § 1782, (2) authorizing Applicant to serve subpoenas in substantially similar form as attached hereto as Exhibit A, and (3) waiving service by Applicant of the Application on the Foreign Defendants, the Discovery Targets¹ and the Respondents, and of the Order and subpoenas on the Foreign Defendants and the Discovery Targets.

Dated: April 4, 2022

Respectfully submitted,

By: 
Thomas Vandenabeele

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¹ As defined in the Declaration of Alexandra Filippova.